

Remarks

This amendment is in response to the Office Action mailed November 26, 2008. Claims 1, 3, 4, 5, and 6 have been amended, claim 2 has been canceled, and claim 9 has been added. Applicant respectfully requests reconsideration in view of the following remarks.

Claims 1-6 have been rejected under 35 U.S.C. 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. Claims 1, 5, and 6 have been amended to address the Examiner's concerns. In particular, the "and/or" language has been removed. Applicant respectfully request the withdrawal of the rejection under 35 U.S.C. 112 to claims 1-6.

Claims 1-4 and 6 have been rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,089,752 to Moore, herein after "*Moore*."

Claim 1 now recites a sack for compressing compressible material contained therein having a plurality of compression straps and a pair of shoulder straps, which are separate from the compression straps. The sack further comprises a panel member attached to the wall to constitute a sleeve on the sack. The sleeve is adapted to optionally stow the shoulder straps between the wall and the panel member.

Moore does not anticipate the invention of claim 1, as amended. *Moore* does not teach a pair of shoulder straps separate from the compression straps. The Examiner argues that the compression straps 60/65 could be used as shoulder straps, Applicant respectfully disagrees. The purpose of the invention of *Moore* is to provide a sack for compressing the material within. If the compression straps of *Moore* were loosened so that they could become shoulder straps then the amount of compression would decline substantially, which is counter to the purpose of the invention. *Moore* provides an optional handle (85), but it does not cooperate with any of the compression straps and would not be suitable for using the sack as a backpack. The present invention is intended to be used as either a compressible sack or a light weight backpack (paragraph [0029]), and is therefore provided with a pair of shoulder straps.

Moore also fails to teach the use of a panel member attached to the wall to form a sleeve on the sack or that the shoulder straps are stowable between the wall and the panel member when not in use. As the Examiner states, the compression straps of *Moore* could be stowed inside the sack by inserting them into the opening (11), but this would make switching from backpack to non-backpack (and vice versa) time consuming and cumbersome.

Accordingly, Applicant respectfully submits that claim 1 is patentable over *Moore* under 35 U.S.C. 102(b). Claims 3 and 4 are dependent on claim 1 and are therefore patentable for at least the same reasons as above. Applicant therefore requests the withdrawal of the rejection to claims 1, 3 and 4.

Claim 6, as amended, now recites a backpack having a plurality of compression straps and connectors exterior to the body, a pair of shoulder straps, which are separate from the compression straps, and a panel member constituting a sleeve that is adapted to optionally stow the shoulder straps between the wall and the panel member. The compression straps, connectors, and cover fastener are operable to compress compressible material in the body portion.

Moore does not teach a backpack, let alone one with separate shoulder straps or a panel member that forms a sleeve capable of stowing the shoulder straps between the wall and the panel member when not in use. The Examiner states that the compression straps of *Moore* could be used as shoulder straps, but as stated above, this would be detrimental to purpose of the invention of *Moore* by reducing the amount of compression in the sack. It is also unlikely that the compression straps of *Moore* are adapted to be comfortable for use as shoulder straps, especially for long periods of time such as during hiking.

Accordingly, Applicant respectfully submits that claim 6 is patentable over *Moore* under 35 U.S.C. 102(b) and requests the withdrawal of the rejection to said claim.

Claim 5 has been rejected under 35 USC 103(a) as being unpatentable over *Moore* in view of US Patent No. 6,325,262 to Thompson, herein after "*Thompson*."

Claim 5 now recites the sack as claimed in claim 4 wherein the panel member is porous and pliable and constitutes a breathable barrier between the user's back and the sack, the sleeve being adapted to optionally stow a stiffening member or hydration bladder.

Thompson is directed to a backpack with an air channel for carrying small articles. (Column 1, lines 10-14). While *Thompson* does teach a porous padded liner for the backpack in the region contacting the user's back, the combination of *Thompson* with *Moore* is not appropriate to teach the invention of claim 5. *Thompson* is directed to a backpack for small articles, while *Moore* is directed to a sack for large items that are desirably compressed. One example given by *Moore* is a sleeping bag, which would clearly not fit in the backpack of *Thompson* as seen in the figures. Furthermore, the invention of *Moore* is to **remove** air from the sack in order to compress the contents as much as possible. (Column 1, lines 40-45). Contrary to *Moore*, *Thompson* teaches the creation of a channel of air within the backpack. (Column 4, lines 20-25).

Neither *Moore* nor *Thompson* actually teach stowing the shoulder straps between the wall and a panel member, or suggest it. While the shoulder straps of *Thompson* could conceivably be stowed behind the porous liner, there would be no motivation to do so, since the invention (a backpack) would be essentially useless without straps. The invention of claim 5, however, still has utility when the straps are stowed, it is able to compress material within the sack to conserve space. *Moore* does not teach shoulder straps and therefore would have no motivation to have a method of stowing them.

Accordingly, Applicant respectfully submits that claim 5 is patentable over *Moore* in view of *Thompson* and requests the withdrawal of the rejection under 35 U.S.C. 103(a) to said claim.

Claim 9 has been added and is dependent on claim 6. It is therefore patentable for at least the same reasons as above.

Reconsideration and reexamination of the application is respectfully requested. Applicant has made a genuine effort to respond to each of the Examiner's objections and rejections in advancing the prosecution of this case. Applicant believes that all formal and substantive requirements for patentability have been met and that this case is in condition for allowance, which action is respectfully requested. If any additional issues need to be resolved, the Examiner is requested to telephone the undersigned at his convenience.

The Commissioner is hereby authorized to charge any fees or credit any overpayments as a result of the filing of this paper to Deposit Account No. 02-3978.

Respectfully submitted,
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Date: February 23, 2009

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